

**MONTANA AERONAUTICS DIVISION  
AERIAL APPLICATOR SEASONAL LEASE AGREEMENT**

This lease agreement between the **MONTANA AERONAUTICS DIVISION** of the Montana Department of Transportation, hereinafter referred to as Lessor, and \_\_\_\_\_, hereinafter referred to as Lessee, witnesseth:

1. Lessor hereby leases to Lessee, and Lessee hires from Lessor, those certain premises (hereinafter referred to as "Leased Premises") located at the **Richey Airport** in **Dawson County**, Montana, which are specifically described in the document entitled Exhibit A which is attached to this lease and by this reference is incorporated in and made a part of this lease, as though fully set forth at this point, for the purpose of a seasonal staging facility for aerial application subject to the terms and conditions set forth in this lease.
2. The term of this lease shall be seasonal, for a 6 month period, from \_\_\_\_\_.
3. Lessee shall pay to Lessor the total sum of **\$XXX.00** annually for rental of the above-described premises. Payment shall be made in full and in advance of the term of this lease and any renewal thereof.
4. This lease may, at the option of the Lessee, be renewed from year to year at a seasonal rental of **\$XXX.00**, and in accordance with and acceptance of the terms and conditions herein specified. The Lessee's option shall be deemed exercised and the lease renewed automatically each year, for an additional seasonal period unless either party gives written notice sixty (60) days in advance of the beginning of the next seasonal term period that it will not or cannot agree to the terms of the lease.
5. Lessee agrees to use the leased premises as follows:

**A. Mixing and Loading Operations**

Lessee shall utilize a mobile mixing unit for transferring liquid and dry chemicals to the aircraft and shall use the leased premises for this purpose. No permanent structures will be associated with the leased premises. However, temporary structures and containers will be allowed for the purpose of containing rinse water and/or unused chemical preparations until they can be used as make-up water. Such containers shall be kept clean and capped to minimize the escapement of any odors. All temporary structures and containers shall be removed from the leased premises at the end of the seasonal lease term unless authorized by the expressed written consent of the lessor.

Lessee shall be responsible for maintaining a clean and safe operation and shall clean up the mixing/loading area after the completion of work each day. Lessee shall be responsible for the disposal or re-use of hazardous materials generated by Lessee in accordance with all federal, state and local laws. No storage of pesticide barrels will be allowed at the mixing area (leased premises) unless being used on a day-to-day basis. At the end of each operating day, all empty barrels, cans, jugs, bags and refuse shall be removed from the mixing area and shall not be allowed to accumulate on airport property. All hazardous materials must be appropriately labeled and stored.

All loading equipment shall be equipped in a manner which permits loading of the aircraft to occur with a minimum of exposure to open pesticide containers to the atmosphere and personnel. All operations shall be conducted with proper caution and adherence to label instructions and in a manner which minimizes the risk of accidental spills and resultant exposure of pesticides to the surrounding airport environment. Lessee shall also immediately notify the Aeronautics Division of any spills, wet or dry, occurring on airport property. Portable fuel tanks may be kept on leased premises for the express purpose of aerial application purposes. All fuel handling and storage must be kept in accordance with all applicable Federal, State and local laws. All portable fuel tanks will be removed from the demised property upon termination of lease.

**B. Hazardous Waste Cleanup and Deposit or Performance Bond**

Lessee shall place a deposit or post a performance bond with a minimum value of XXXXXXXX DOLLARS (\$XXXXXX) to assure the proper performance of lessee's duties and to compensate the lessor for any clean up of hazardous waste contamination created or spilled by the lessee on the demised property. A deposit may be in the form of a cash deposit with the Aeronautics Division, a certificate of deposit (CD) in the Aeronautics Division name with the interest payable to the lessee, a certificate of insurance covering hazardous waste spills, or an irrevocable letter of credit in favor of the Aeronautics Division. If a certificate of deposit is used for the deposit purpose, the CD will be in the Aeronautics

Division's name in trust for the lessee. If the Aeronautics Division determines there is payment due from the lessee, the Aeronautics Division may cash the CD and deduct the amount owed. The Aeronautics Division will retain all accrued interest paid, and then at the satisfactory termination of the lease will pay the lessee the balance of the CD and all accrued interest on the account. In the event the Aeronautics Division uses any deposit for clean up or mitigation purposes, any remaining balance of the deposit less than \$XXXXXX will be refunded to the lessee.

All Hazardous Wastes (Ignitable, Corrosive, Reactive, Toxic) are to be properly disposed of off site from the leased premises daily. It is the responsibility of the lessee to have the waste disposed of off site in accordance with the requirements of the Resource, Conservation and Recovery Act. In the event that the Lessee leaves contained wastes on the property, the Aeronautics Division will have the wastes properly disposed of at the cost to the Lessee. The Lessee will be billed for the cost of storage, transport and disposal.

### **C. Insurance**

(1) All policies of insurance to be kept and maintained in force by the respective parties hereto shall be obtained from good and solvent insurance companies.

(2) Lessee shall, at its own expense, at all times during the term of this agreement, maintain in force a policy or policies of insurance, written by one or more responsible insurance carriers approved by the State of Montana, which will insure the Aeronautics Division against liability for injury to or death of persons or loss or damage to property. The liability under such insurance shall be not less than XXXXXXXXXXXX DOLLARS (\$XXXXXXXX) for any one person killed or injured, XXXXXXXXXXXX DOLLARS (\$XXXXXXXX) for any one accident, and XXXXXXXXXXXX DOLLARS (\$XXXXXXXX) for property damage.

### **D. Laws and Regulations**

Lessee will comply with all rules and regulations of the FAA and laws of the United States, and the State of Montana, and rules and regulations of the Montana Aeronautics Division and all applicable local regulations. Lessee is aware that there are significant penalties for improperly disposing of wastes or submitting false information, including the possibility of fine and imprisonment for knowing violations.

### **E. Sanitation**

Lessee shall not allow any solid waste to be committed on or about leased premises. The Lessee shall keep the area free and clear of any and all refuse and debris. The Lessee will likewise keep and observe all rules and regulations of the Aeronautics Division in any way relating to the maintenance, use and occupancy of said demised premises.

### **F. Cancellation**

If deficiencies are found by the Aeronautics Division, the lessee has thirty (30) days from the date of notification to address and rectify said deficiencies or the contract will be terminated. The Aeronautics Division reserves the right to cancel this lease at any time without prior notice.

### **G. Attorneys Fees**

In the event either party shall bring legal proceedings to enforce any obligations hereunder or for the breach thereof, the prevailing party shall be entitled to recover attorney's fees and cost paid or incurred therein in good faith.

6. Lessee may not assign or sublet this lease without the prior consent of Lessor.
7. The Lessee shall be responsible for acquiring whatever insurance the Lessee deems necessary to safeguard the Lessee's interest in the Lessee's real and personal property stored on subject airport and, in this regard, expressly covenants and agrees to assert no claim against Lessor as a result of loss or damage to any real or personal property stored on leased premises belonging to Lessee resulting from actions of any third party.

The Lessee hereby covenants and agrees to take whatever steps the Lessee sees fit to take in protecting the Lessee's person and property from loss or damage as the result of vandalism, malicious mischief, theft, or kindred losses, and, in this regard, agrees to assert no such claim against the Lessor incident thereto. All losses suffered by the Lessee resulting from the criminal activity of others shall be reported to the police or sheriff's department having jurisdiction. The Lessor assumes no responsibility for such losses.

Lessee will indemnify and hold harmless the State of Montana, Department of Transportation, and the Aeronautics Division and its employee's from any loss, liability or expense, for injury to or death to any person, or loss or destruction of any property caused by Lessee's use or occupancy of the Leased Premises.

8. No construction or installation of any above ground or underground fuel storage tank dispensing system permanently located on demised grounds will be allowed. Temporary, portable fuel tanks may be kept on the leased ground for the express purpose to aid in the function of aerial application. All fuel storage containers will be subject to all applicable Federal, State and local laws and regulations.
9. Lessee shall comply with all State and Federal laws pertaining to air pollution, and all other applicable Federal and State laws and regulations. Lessor shall have the right, through its agents or agents of another appropriate agency, for reasonable ingress and egress to inspect premises to ascertain that the terms of this agreement are being adhered to and to check for site contamination.
10. The lessee has the right to, and is advised to, conduct any water and/or soil sampling required of the demised site prior to any operation or transfer of any materials or chemicals to the demised site by the lessee in order to ascertain whether any pre-existing contamination may be on the leased site. If pre-existing water and/or soil contamination is detected, the Aeronautics Division will hold harmless the lessee from any negligence or responsibility. The Aeronautics Division may cancel the lease at any time regardless of lessee fault in order to rectify pre-existing contamination problems on the demised site. If the lessee elects to sample the site, a certified, reputable independent lab which has been approved by the Aeronautics Division in writing must carry out the contamination sampling requested by the lessee and the results must be delivered to the Aeronautics Division prior to any operation or transfer of chemicals to the leased site by the lessee.
11. The lessee must carry workers compensation coverage for any employee of the lessee using the demised site and be able to provide proof of workers compensation coverage to the lessor upon demand.
12. Notices to Lessor shall be sent by certified mail, postage prepaid, to the Montana Aeronautics Division, P.O. Box 5178, Helena, MT 59604, and notices to Lessee shall be sent by certified mail, postage prepaid to: \_\_\_\_\_.

IN WITNESS WHEREOF, the parties hereto have signed this agreement this \_\_\_\_ day of \_\_\_\_\_, 19

Lessee

Department of Transportation:

\_\_\_\_\_  
Legal Review

\_\_\_\_\_  
Administrator, Aeronautics Division